

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CHARLES LANGONE, as FUND MANAGER)
of the NEW ENGLAND TEAMSTERS AND)
TRUCKING INDUSTRY PENSION FUND)
)
Plaintiff,)
)
v.)
)
PYTKO CONSTRUCTION CORP.)
)
Defendant,)
)
_____)

C.A. No. 04cv12001NMG

**STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Plaintiff, Charles Langone, respectfully submits the following statement of undisputed facts in support of his Motion for Summary Judgment.

1. Charles Langone is a "fiduciary" of the Funds as defined by Section 502(a)(3) of ERISA, 29 U.S.C. §1132(a)(3). (Complaint ¶3).
2. The Fund is a "multi-employer plan" within the meaning of Section 3(37)(A) of ERISA, 29 U.S.C. §1002(37)(A) and "employee benefit plan" or "plan" within the meaning of Section 3(3) of ERISA, 29 U.S.C. §1002(3). (Complaint ¶3; Langone Affidavit, ¶2).
3. Pytko Construction Corp. "Pytko" is obligated to make monthly pension contributions to the Fund pursuant to the Rhode Island Heavy Construction & Ready Mix Agreement and the Fund's Standard Participation Agreement. (Langone Affidavit).
4. Pytko has failed to make contributions to the Fund since January of 2005. (Langone Affidavit ¶11).
5. Pytko failed to timely execute and make payments pursuant to a settlement agreement. Consequently that agreement is null and void. (Campbell Affidavit).

6. In accordance with 29 U.S.C. 1132(g)(2), Pytko owes the Fund a total of \$11,820.95 including contributions, accumulated late charges, interest, liquidated damages, costs and fees. (Langone and Campbell Affidavit.)

Dated: July 22, 2005

Respectfully submitted,

/S/ Catherine M. Campbell

Catherine M. Campbell

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